



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
Planning Division

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	September 15, 2015
SUBJECT/REPORT NO:	Conservation Review Board Report CRB1404 Respecting the Notice of Intention to Designate (NOID) 1 St. James Place, Hamilton (PED15133) (Ward 2)
WARD(S) AFFECTED:	Ward 2
PREPARED BY:	Alissa Golden Cultural Heritage Planner (905) 546-2424 Ext. 1214 Steve Robichaud Director of Planning and Chief Planner
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATION

- (a) That the Conservation Review Board Report CRB1404, attached as Appendix “B” to Report PED15133, be received;
- (b) That the Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes, attached as Appendix “C” to Report PED15133, be approved;
- (c) That the By-law, attached as Appendix “D” to Report PED15133, to designate 1 St. James Place, Hamilton as a property of cultural heritage value pursuant to the provisions of Part IV of the *Ontario Heritage Act*, be approved;
- (d) That Staff Report PED15133 be forwarded to the Hamilton Municipal Heritage Committee for their information.

EXECUTIVE SUMMARY

On May 29, 2014, the City of Hamilton issued a Notice of Intention to Designate (NOID) the property located at 1 St. James Place in Hamilton (see Location Map attached as Appendix “A” to this Report) under Part IV of the *Ontario Heritage Act*. Objections to the

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NOID were filed on June 26, 2014 and were referred to the Conservation Review Board (CRB) on July 18, 2014 for review.

The CRB is an adjudicative tribunal that considers matters under Part IV and V of the *Ontario Heritage Act* and makes recommendations to Council, which is the final decision-maker (as per s. 29(14.1) of the *Ontario Heritage Act*). The CRB hearing addressing the objections to the NOID for 1 St. James Place was held from June 2, 2015 to June 5, 2015. The report outlining the findings and recommendations of the CRB, known as CRB1404, was issued on July 24, 2015 and is attached as Appendix “B” to this Report.

The CRB found that the City of Hamilton complied with the provisions of the *Ontario Heritage Act* when issuing the NOID for 1 St. James Place and recommends that the City proceed with the designation of 1 St. James Place with a revised Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes attached as Appendix “C” to this Report.

Staff concur with the CRB and recommend that Council designate 1 St. James Place under Part IV of the *Ontario Heritage Act* by passing the By-law attached as Appendix “D” to this Report.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Under s. 29(14) of the *Ontario Heritage Act*, Council must consider the CRB report and either pass a by-law to designate or withdraw the NOID. Council’s decision under s. 29(14.1) is final.

Designation under Part IV of the *Ontario Heritage Act* allows municipalities to recognize a property’s cultural heritage value or interest and to conserve and manage the property through the Heritage Permit process enabled under s. 33 (alterations) and s. 34 (demolition or removal) of the *Ontario Heritage Act*.

Where alterations to designated properties are contemplated, a property owner is required to apply for, obtain, and comply with a Heritage Permit, for any alteration that is “likely to affect the property’s heritage attributes, as set out in the description of the property’s heritage attributes” (s. 33(1)). Designation does not restrict the use of a property, prohibit alterations or

additions, or restrict the sale of a property. The City of Hamilton also provides heritage grant and loan programs to assist in the continuing conservation of properties, once they are designated.

HISTORICAL BACKGROUND

The subject property, 1 St. James Place, Hamilton, is located on the corner of St. James Place and James Street South (Location Map attached as Appendix “A” to this Report) and is comprised of a two-storey dwelling constructed in 1935 with generous front and side yards. The property was listed on the City’s Inventory of Buildings of Architectural and/or Historical Interest by the former Local Architectural Conservation Advisory Committee (LACAC), now known as the Hamilton Municipal Heritage Committee (HMHC). On May 14, 2014, Council directed staff to include the property on the Register of Property of Cultural Heritage Value or Interest as a non-designated property, following consultation with the HMHC.

On May 28, 2014, Council directed staff to publish a NOID for 1 St. James Place in Hamilton, following consultation with HMHC. The HMHC was consulted at a special meeting held May 29, 2014 and endorsed Council’s position to designate the property. The NOID was served on the property owner and the Ontario Heritage Trust on May 29, 2014 and was published on May 30, 2014, as required by the Ontario Heritage Act.

The property owner, St. James No. 1 Inc. comprised of two officers of the Corporation; Victor Veri, President, and Wei Fan, Director; and David Sa representing Saco Real Estate Inc., separately objected to the NOID on June 26, 2014. The objections were referred to the CRB on July 18, 2014 for review.

The CRB hearing addressing the objections to the NOID for 1 St. James Place was held from June 2, 2015 to June 5, 2015. The report outlining the findings and recommendations of the CRB, known as CRB1404, was issued on July 24, 2015 and is attached as Appendix “B” to this Report.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Provincial Policy Statement (2014):

Section 2.6 of the Provincial Policy Statement pertains to Cultural Heritage and Archaeology. Sub-section 2.6.1 states that “significant built heritage resources and significant cultural heritage landscapes shall be conserved”. The recommendations of this Report are consistent with this policy.

Urban Hamilton Official Plan:

Volume 1, Section B.3.4 - Cultural Heritage Resources Policies of the Urban Hamilton Official Plan (UHOP) states that the City shall “protect and conservethe tangible cultural heritage resourcesof the City,including archaeological resources, built heritage resources,and culturalheritage landscapes” (B.3.4.2.1(a)), and “identify cultural heritage resourcesthrough a continuing process ofinventory, survey, and evaluation, as a basis for the wise management ofthese resources” (B.3.4.2.1(b)). The policies also provide that the “City may, by By-law, designate individual and groups of properties of cultural heritage value under Parts IV and V, respectively, of the *Ontario Heritage Act*” (B.3.4.2.3). The recommendations of this Report are consistent with these policies.

RELEVANT CONSULTATION

The HMHC was consulted on May 15, 2014 and on May 29, 2015respecting the cultural heritage value or interest of 1 St. James Place and supported Council’s resolution to issue a NOID for the property.Following review by Council, a copy of this Report will be forwarded to HMHC for their information (as per Recommendation (d) of this Report).

The City servedthe NOID on the owner and the Ontario Heritage Trust on May 29, 2014 and published it in the newspaper on May 30, 2014, as per s. 29(3) of the *Ontario Heritage Act*.

The Notice of Public Hearing for the CRB hearing, held from June 2, 2015 to June 5, 2015,was published on May 21, 2015, as per s. 29(9) of the Ontario Heritage Act.

The Legal Services Division, Office of the City Manager,was consulted in preparation of this Report.

All parties involved in the CRB hearing (see CRB1404 attached as Appendix “B” to this Report), including the owner and the objectors, were issued a copy of the CRB findings and recommendations.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The CRB hearing addressedtwo objections to the NOID issued for 1 St. James Place: the process by which the NOID was issued; and, whether the property meets the minimum criteria to warrant designation under Part IV (s. 29) of the *Ontario Heritage Act*.

Under s. 29 of the *Ontario Heritage Act*, a property may be designated if it meets one or more of the criteria outlined in *Ontario Regulation 9/06* for determining cultural heritage value or interest. For the purposes of the CRB hearing, all members involved agreed that a revised Statement of Cultural Heritage Value or Interest, prepared by the City’s

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expert witness, be substituted for the original statement included in the NOID. The CRB report (CRB1404, attached as Appendix “B” to this Report) findings are divided into two sections:

- **Part A** addresses the objectors’ allegations regarding the process by which the NOID was issued; and,
- **Part B** addresses the determination of cultural heritage value or interest under *Ontario Regulation 9/06* and Part IV (s. 29) of the *Ontario Heritage Act*.

In summary, the CRB found that the City of Hamilton complied with the provisions of the *Ontario Heritage Act* when issuing the NOID for 1 St. James Place and that the property satisfies the criteria for determining cultural heritage value, demonstrating all three categories, including: design/physical value, historical/associative value; and, contextual value. As such, the CRB found that the property is worthy of designation under Part IV of the *Ontario Heritage Act*.

Revised Value Statement and List of Attributes:

The findings of report CRB1404 (attached as Appendix “B” to this Report) include a number of recommendations to further revise the Statement of Cultural Heritage Value or Interest and the Description of Heritage Attributes prepared for the hearing. The following is a summary of the recommended changes:

- (i) The date of construction should be narrowed to 1935, rather than mid-1930s;
- (ii) All references attributing the design to Hutton and Souter Architects should be modified to a likely attribution, unless subsequent research can confirm otherwise;
- (iii) All references attributing the construction work to Pigott Construction Company Ltd. should be modified to reflect the personal involvement of Joseph M. Pigott, President of Pigott Construction Company Ltd. in the experimental housing project, unless subsequent research can confirm otherwise;
- (iv) All references to “structural steel” should be substituted with wording to the effect that this was an innovative composite technology using wood, cork insulation, concrete floor slabs and steel framing, with stucco cladding;
- (v) The “pressurised air conditioning system and insulating, double glazing” should be specified as existing or removed;

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- (vi) The interior staircase, including its terrazzo steps and metal handrail elements, should be added to the value statement and/or list of attributes;
- (vii) Reference to contextual importance of the property should be included in the value statement;
- (viii) The reference to “Art Moderne” as a style of architecture should be deleted from the list of attributes;
- (ix) For clarification, in the Description of Heritage Attributes, “All building facades of the existing house” should be broadened to “of the existing house, including the side porch and side garage”; and,
- (x) The reference to the “landscaped open space of the front and side yards” included in the list of attributes should be revised appropriately to address the mature trees that were recently removed and to provide clarity.

Staff, in consultation with the expert witness retained to represent the City’s interest at this hearing, have reviewed the report findings and agree with the above-mentioned changes recommended by the CRB. The Statement of Cultural Heritage Value or Interest and the Description of Heritage Attributes utilized as part of the CRB hearing have been revised by staff, as per the CRB recommended changes, and are attached as Appendix “C” to this Report.

Conclusion:

Staff concur that 1 St. James Place is of cultural heritage value worthy of designation and recommend that Council pass the by-law to designate, attached as Appendix “D” to this Report.

ALTERNATIVES FOR CONSIDERATION

Under s. 29(14) of the *Ontario Heritage Act*, Council must consider the CRB report and either pass a by-law to designate, as recommended by staff in this Report, or withdraw the NOID by causing a notice of withdrawal to be served on the owner of the property and on the Ontario Heritage Trust, and by providing public notice.

Withdrawing the NOID is not consistent with the findings of the CRB report, which confirmed that the property is worthy of designation, and would not fulfil the expectations established by existing Municipal and Provincial policies.

By withdrawing the NOID, the Municipality would be unable to provide long-term, legal protection of this significant heritage resource, as designation provides protection against inappropriate alterations, new construction and demolition.

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Without designation, the property would not be eligible for the City's heritage grant and loan programs.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn

Strategic Objective

1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Staff Comments:

Designation of this property under Part IV of the Ontario Heritage Act will provide for the long-term, legal protection of this significant heritage resource. The approval of the recommendations of this Report demonstrates:

- Council's commitment to the existing Municipal planning policies; and,
- Council's commitment to conserving cultural heritage resources, as directed by Provincial and Federal level policies.

APPENDICES AND SCHEDULES ATTACHED

- Appendix "A": Location Map
- Appendix "B": Conservation Review Board Report CRB1404, issued July 24, 2015
- Appendix "C": Statement of Cultural Heritage Value or Interest and Description of Heritage Attributes (Revised for this Report)
- Appendix "D": By-law to Designate 1 St. James Place in Hamilton under Part IV of the *Ontario Heritage Act*